

NEVADA ADMINISTRATIVE CODE
CHAPTER 349
STATE OBLIGATIONS
REVENUE BONDS FOR INDUSTRIAL DEVELOPMENT

NAC 349.010 Definitions. ([NRS 349.630](#))

As used in [NAC 349.010](#) to [349.080](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 349.012](#) to [349.019](#), inclusive, have the meanings ascribed to them in those sections.

[Dep't of Commerce, Industrial Development Revenue Bond Reg. § 3, eff. 12-30-81]—(NAC A by Dep't of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.012 “Bond facilitator” defined. ([NRS 349.630](#))

“Bond facilitator” means a person or business entity with special education or experience in the financing of revenue bonds that is hired to provide any or all of the following services:

1. Consultation with applicants or prospective applicants regarding the requirements for issuance of revenue bonds and the making of preliminary assessments regarding eligibility.
 2. Management of the application process for the applicant, including the preparation, distribution and review of the application.
 3. Management of the process for completing a financing pursuant to the program for the issuance of revenue bonds, including, without limitation, communicating with the finance team, local agencies, underwriters, bond counsel and trustee, reviewing financing documents and coordinating public meetings.
 4. Coordination of the activity of all participants in each financing.
- (Added to NAC by Dep't of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.013 “Bonds” defined. ([NRS 349.630](#))

“Bonds” has the meaning ascribed to it in [NRS 349.420](#).

(Added to NAC by Dep't of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.014 “Department” defined. ([NRS 349.630](#))

“Department” means the department of business and industry.

(Added to NAC by Dep't of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.015 “Director” defined. ([NRS 349.630](#))

“Director” means the director of the department.

(Added to NAC by Dep't of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.016 “Finance” and “financing” defined. ([NRS 349.630](#))

“Finance” or “financing” has the meaning ascribed to it in [NRS 349.460](#).

(Added to NAC by Dep't of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.018 “Obligor” defined. ([NRS 349.630](#))

“Obligor” has the meaning ascribed to it in [NRS 349.500](#).

(Added to NAC by Dep't of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.019 “Project” defined. (NRS 349.630)

“Project” has the meaning ascribed to it in [NRS 349.510](#).

(Added to NAC by Dep’t of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.020 Purpose and objectives. (NRS 349.630)

The provisions of [NAC 349.010](#) to [349.080](#), inclusive, are established to effectuate and will be applied so as to accomplish the general purposes of [chapter 349 of NRS](#) and the specific objectives of [NRS 349.560](#).

[Dep’t of Commerce, Industrial Development Revenue Bond Reg. § 2, eff. 12-30-81]—(NAC A by Dep’t of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.030 Financing.

The department will finance:

1. Construction loans for the interim financing of the new construction, improvement, rehabilitation or redevelopment of a project.

2. Loans for the permanent financing of projects, including their acquisition.

[Dep’t of Commerce, Industrial Development Revenue Bond Reg. § 4, eff. 12-30-81]

NAC 349.033 Bond facilitators: Availability of, application and conditions for placement on, and removal from list of approved bond facilitators; authority. (NRS 349.630)

1. The director may maintain and make available a list of approved bond facilitators to applicants and prospective applicants.

2. A person or business entity may apply to the director for placement on the list of approved bond facilitators.

3. The director will place a person or business entity on the list of approved bond facilitators if the person or business entity:

(a) Presents evidence satisfactory to the director that the person or business entity is qualified by education or experience to assist applicants and prospective applicants in the financing of revenue bonds pursuant to the provisions of [NAC 349.010](#) to [349.080](#), inclusive; and

(b) Agrees to follow the provisions for bond facilitators as set forth in [NAC 349.036](#).

4. The director may remove a person or business entity from the list of approved bond facilitators if, in the judgment of the director, the person or business entity:

(a) Fails to follow the provisions set forth in [NAC 349.036](#); or

(b) Charges excessive fees for the services provided to applicants and prospective applicants.

5. An approved bond facilitator may:

(a) Provide recommendations to the director on ways to improve the administration of the bond program such as amending statutes, regulations, application materials or marketing materials;

(b) Develop new programs for the issuance of revenue bonds for the director; and

(c) Receive compensation, as set by the director, for providing such recommendations and developments.

(Added to NAC by Dep’t of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.036 Bond facilitators: Duties. (NRS 349.630)

An approved bond facilitator shall inform:

1. The applicant or prospective applicant, at the earliest time practicable, that the decision to use the services of a bond facilitator is solely that of the applicant or prospective applicant and that the

applicant or prospective applicant is not required to use those services in order to apply for or obtain the financing of revenue bonds.

2. The applicant or prospective applicant, at the earliest time practicable, that the bond facilitator acts as the sole agent of the applicant or prospective applicant and does not represent or have any influence over the director in his decision to issue revenue bonds pursuant to the provisions of [NAC 349.010](#) to [349.080](#), inclusive.

3. The applicant or prospective applicant, at the earliest time practicable, that the director is not responsible or liable for the acts of the bond facilitator.

4. The director, upon his request, of the financial arrangement between the bond facilitator and the applicant or prospective applicant.

(Added to NAC by Dep't of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.040 Application for financing: Contents and form; fees; deposit; administrative charge; action by director. ([NRS 232.520](#))

1. The application must include, but is not limited to:

(a) The purpose, objective and function of the proposed project;

(b) A summary of the costs of the project, including any incidental costs associated with the project;

(c) A description of the management of the project;

(d) Information on the site of the project and the proposed facilities, including all information related to the status of any required environmental permits;

(e) The location of the project, including the relationship of the project to any existing facilities adjacent to the site;

(f) A description of all proposed expenditures of bond receipts, including a detailed description of the machinery and equipment to be acquired by the financing;

(g) The economic feasibility of the project;

(h) A business history of the applicant; and

(i) Any other information required by the director.

2. The applicant must submit an original and four copies of his application for financing on a form provided by the director. The application must be accompanied by a nonrefundable application fee of:

(a) Five hundred dollars if the amount of the requested bonds is \$3,000,000 or less.

(b) Seven hundred and fifty dollars if the amount of the requested bonds is more than \$3,000,000 and less than \$6,000,000.

(c) One thousand dollars if the amount of the requested bonds is \$6,000,000 or more.

3. The director will, within 30 days after receipt of a completed application, notify the applicant whether or not his application is accepted.

4. If the application is not accepted, the director will provide the applicant an opportunity to discuss the reasons for denial.

5. If the application is accepted, the director will:

(a) Direct the applicant to submit a deposit based on an estimate of the total costs of the department to process the application and finance the project. The deposit will not exceed 1 percent of the principal amount of the financing, payable before or at the time the bonds are issued.

(b) Send the applicant an inducement letter:

(1) Stating the intention of the director to issue bonds to finance the project subject to the continuing ability of the project to meet local, state and federal requirements;

(2) Stating the principal amount of the financing;

(3) Directing the applicant to submit any supporting documentation as may be required by the director; and

(4) Stating that the term of the director's commitment is 1 year. At the expiration of the term, the director may extend the commitment for a similar term upon receipt of a nonrefundable extension fee in the amount of \$1,500.

6. Whether or not the bonds are issued, the deposit received on behalf of the director will be used to reimburse the department for the cost of a project incurred in processing the application and financing the project and will include the following nonrefundable, administrative charge:

(a) If the principal amount of the financing is equal to or less than \$5,000,000, then a charge of \$2,500; or

(b) If the principal amount of the financing is greater than \$5,000,000, then a charge of 0.05 percent of the principal amount of the financing.

The portion of the deposit that is not required to reimburse the department for its cost of a project will be refunded to the applicant. The cost of a project incurred by the director in excess of the deposit will be charged to the applicant and must be paid on or before the date of the issuance of the bonds.

7. If bonds are issued and by agreement or as the result of a default in payment of the bonds, the bankruptcy of the obligor or any other reason, the director is required to provide ongoing services, expend additional resources or incur additional costs in relation to the bonds, including, without limitation, supervising, monitoring or reviewing on a regular basis the activity of the obligor or any other party to the transaction or the documentation relating to the transaction, the director may charge and recover from the obligor a reasonable fee for such services, resources or costs.

8. The director may modify the principal amount and the other terms and conditions of the financing before the closing.

9. The director will establish the interest rate to be charged to the obligor for the financing and, if appropriate, or otherwise in accordance with the terms of the financing agreement, will adjust the interest rate from time to time.

10. The director will use the fees collected pursuant to this section exclusively to support the operations of his office that are in connection with the programs administered pursuant to the provisions of chapters 348A and 349 of NRS and any regulations adopted pursuant thereto.

11. The director will establish the appropriate accounts and procedures for the deposit and expenditure of money received pursuant to this section.

12. As used in this section, "cost of a project" has the meaning ascribed to it in [NRS 349.430](#).

[Dep't of Commerce, Industrial Development Revenue Bond Reg. § 5, eff. 12-30-81]—(NAC A 7-6-92; A by Dep't of Business & Industry by R039-02, eff. 6-26-2002)

NAC 349.050 Authorized investments.

The obligor will direct the trustee, if any, of the applicable bond issue, to invest and reinvest the proceeds from the sale of the bonds, subject to the bond certificate, indenture or resolution, in any of the investments listed in subsection 1 of [NRS 349.630](#).

[Dep't of Commerce, Industrial Development Revenue Bond Reg. § 6, eff. 12-30-81]

NAC 349.060 Trustee: Selection; qualifications; resignation, discharge.

1. The applicant may select, with the approval of the director, a bank or trust company to serve as trustee under the bond certificate, indenture, or resolution for the applicable bond issue if a trustee is required. The director will appoint a trustee if no trustee is selected by the applicant.

2. In determining the qualification of the trustee, the director will take into consideration:

(a) The experience of the bank or trust company in acting as a trustee for public issuers.

(b) The amount of its capital stock, surplus and undivided profits.

(c) Its investment capabilities.

(d) The size and experience of its professional staff.

(e) The cost of the services to be provided in relation to the number of services to be offered, and the quality and experience of the professional staff which will provide the services.

3. Unless otherwise provided for in the applicable bond certificate, indenture, or resolution, the trustee may at any time resign or be discharged from his duties if he gives the department at least 60 days' written notice and provides any notice that is required by the respective bond certificate, indenture, or resolution.

[Dep't of Commerce, Industrial Development Revenue Bond Reg. § 7, eff. 12-30-81]

NAC 349.070 Examination of books and records.

The obligor's books, accounts and other records pertaining to the project must be open to inspection by representatives of the department during regular business hours. The department will conduct such examinations of the records as it deems appropriate to determine compliance with [chapter 349 of NRS](#) and [NAC 349.010](#) to [349.080](#), inclusive. The department may require each obligor to pay the costs of any examination.

[Dep't of Commerce, Industrial Development Revenue Bond Reg. § 8, eff. 12-30-81]

NAC 349.080 Requests for clarification, relief or information. (NRS 349.630)

Any person desiring clarification of [NAC 349.010](#) to [349.080](#), inclusive, relief from the strict application of any of the terms of those sections, or information concerning procedures for dealing with the department may address a written request to the director at:

Department of Business and Industry
555 East Washington Avenue, Suite 4900
Las Vegas, Nevada 89101-1075

[Dep't of Commerce, Industrial Development Revenue Bond Reg. § 9, eff. 12-30-81]—(NAC A by Dep't of Business & Industry by R039-02, eff. 6-26-2002)